

AMENDED IN ASSEMBLY APRIL 16, 2007

AMENDED IN ASSEMBLY MARCH 27, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

## ASSEMBLY BILL

**No. 1032**

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**Introduced by Assembly Member Wolk**

February 22, 2007

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An act to amend ~~Sections 5653 and 5653.7 of~~ Section 5653 of, and to amend, repeal, and add Section 5653.7 of, the Fish and Game Code, relating to aquatic species.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1032, as amended, Wolk. Dredging: closed waters: native trout: aquatic and amphibian species.

Existing law prohibits the use of any vacuum or suction dredge equipment by any person in any river, stream, or lake of this state without a permit issued by the Department of Fish and Game. Under existing law, it is unlawful to possess a vacuum or suction dredge in areas, or in or within 100 yards of waters, that are closed to the use of vacuum or suction dredges. The department is authorized to close areas otherwise open for dredging and for which permits have been issued if there is an unanticipated water level change and the department determines that closure is necessary to protect fish and wildlife resources.

*The Trout and Steelhead Conservation and Management Planning Act of 1979 finds and declares that it is the policy of the state to establish and maintain wild trout stocks in suitable waters of the state and establish angling regulations designed to maintain the wild trout fishery in those waters by natural reproduction. The act requires the department*

*to determine whether each stream or lake should be managed as a wild trout fishery, or whether its management should involve the planting of trout. The act states the intent of the Legislature that the Fish and Game Commission maintain a specified wild trout program.*

Existing law *also* authorizes the ~~Fish and Game Commission~~ *commission* to designate “Heritage Trout Waters” to recognize the beauty, diversity, historical significance, and special values of California’s native trout, as defined.

This bill, *until January 1, 2014*, would close designated *wild and* heritage trout waters to suction dredging, except as authorized by permit approved by the commission. The bill would prohibit the commission from approving a permit unless it finds that the subject dredging operation will not be deleterious to certain species. The bill would authorize the department to close an area to dredging otherwise opened for dredging and for which a permit has been issued, without regard to water level, if the department determines that it is necessary to protect fish and wildlife resources, including native aquatic or amphibian species listed by the commission as endangered or threatened under the California Endangered Species Act, or species identified by the department as species of special concern.

*On and after January 1, 2014, the bill would again authorize the department to close areas otherwise open for dredging and for which have been issued if there is an unanticipated water level change and the department determines that closure is necessary to protect fish and wildlife resources.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 5653 of the Fish and Game Code is
- 2 amended to read:
- 3 5653. (a) The use of any vacuum or suction dredge equipment
- 4 by any person in any river, stream, or lake of this state is prohibited,
- 5 except as authorized under a permit issued to that person by the
- 6 department in compliance with the regulations adopted pursuant
- 7 to Section 5653.9. Before any person uses any vacuum or suction
- 8 dredge equipment in any river, stream, or lake of this state, that
- 9 person shall submit an application for a permit for a vacuum or
- 10 suction dredge to the department, specifying the type and size of

1 equipment to be used and other information as the department may  
2 require.

3 (b) Under the regulations adopted pursuant to Section 5653.9,  
4 the department shall designate waters or areas wherein vacuum or  
5 suction dredges may be used pursuant to a permit, waters or areas  
6 closed to those dredges, the maximum size of those dredges that  
7 may be used, and the time of year when those dredges may be  
8 used. If the department determines, pursuant to the regulations  
9 adopted pursuant to Section 5653.9, that the operation will not be  
10 deleterious to fish, it shall issue a permit to the applicant. If any  
11 person operates any equipment other than that authorized by the  
12 permit or conducts the operation in any waters or area or at any  
13 time that is not authorized by the permit, or if any person conducts  
14 the operation without securing the permit, that person is guilty of  
15 a misdemeanor.

16 (c) The department shall issue a permit upon the payment, in  
17 the case of a resident, of a base fee of twenty-five dollars (\$25),  
18 as adjusted under Section 713, when an onsite investigation of the  
19 project size is not deemed necessary by the department, and a base  
20 fee of one hundred thirty dollars (\$130), as adjusted under Section  
21 713, when the department deems that an onsite investigation is  
22 necessary. In the case of a nonresident, the base fee shall be one  
23 hundred dollars (\$100), as adjusted under Section 713, when an  
24 onsite investigation is not deemed necessary, and a base fee of two  
25 hundred twenty dollars (\$220), as adjusted under Section 713,  
26 when an onsite investigation is deemed necessary.

27 (d) It is unlawful to possess a vacuum or suction dredge in areas,  
28 or in or within 100 yards of waters, that are closed to the use of  
29 vacuum or suction dredges, including, but not limited to, waters  
30 closed by the department pursuant to Section 5653.7.

31 SEC. 2. Section 5653.7 of the Fish and Game Code is amended  
32 to read:

33 5653.7. (a) ~~Heritage Wild and heritage~~ trout waters designated  
34 pursuant to Section 1727 or 7260 shall be closed to suction  
35 dredging, except as authorized by permit approved by the  
36 commission. The commission shall not approve a permit unless it  
37 finds that the dredging operation will not be deleterious to wild  
38 trout and steelhead stocks, or to other native aquatic or amphibian  
39 species known to exist in the designated waters, that are listed

1 under state or federal law as threatened or endangered or have  
2 been identified by the department as a species of special concern.

3 (b) Notwithstanding any other provision of law, if the  
4 department determines that it is necessary to protect fish and  
5 wildlife resources, including, but not limited to, native aquatic or  
6 amphibian species listed by the commission pursuant to Section  
7 2070 or species identified by the department as species of special  
8 concern, the department may close areas that were otherwise  
9 opened for dredging and for which permits were issued pursuant  
10 to Section 5653.

11 (c) *This section shall remain in effect only until January 1, 2014,*  
12 *and as of that date is repealed, unless a later enacted statute, that*  
13 *is enacted before January 1, 2014, deletes or extends that date.*

14 SEC. 3. Section 5653.7 is added to the Fish and Game Code,  
15 to read:

16 5653.7. (a) *In the event of an unanticipated water level change,*  
17 *if the department determines that it is necessary to protect fish and*  
18 *wildlife resources, the department may close areas that were*  
19 *otherwise opened for dredging and for which permits were issued*  
20 *pursuant to Section 5653.*

21 (b) *This section shall become operative on January 1, 2014.*